

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Heinrich Haas <i>et al.</i>)	Confirmation No: 3937
)	
Application No.: 10/525,384)	Group Art Unit: 1618
)	
Filed: February 23, 2005)	Examiner: P.W. Dickinson
)	
For: Non-Vesicular Cationic Lipid Formulations)	Date: June 18, 2009
)	

RESPONSE TO RESTRICTION REQUIREMENT

This paper responds to the Restriction Requirement, mailed March 4, 2009, time for response to which expired April 4, 2009. An extension of time for three months is filed concurrently with this paper, thereby extending the period for response to July 4, 2009.

Applicants respectfully elect, with traverse, Group I claims 47-74, directed to a non-vesicular preparation. Applicants respectfully traverse the requirement for restriction as Group II, claims 75-77, and Group III, claims 78-83, are drawn to methods of preparing and using the preparation of Group I, and would therefore not cause an undue burden to search. The search for one of the inventions would result in finding art that is pertinent to the other inventions. It would not be a serious burden on the Patent Office to search and examine all the groups in one application.

With respect to the first species election, Applicants elect (A) a lipid with positive net charge from claim 50. Applicants further elect the quaternary ammonium group of claim 53.

With respect to the second species election, Applicants respectfully elect (A) a therapeutic agent. Applicants further elect with traverse the therapeutic compound of a camptothecin (claim 65). Applicants traverse this election requirement as the listed therapeutic agents are all capable of forming the claimed preparation. Applicants particularly request that at a minimum taxane and epothilone (claim 66) be examined with camptothecin, as these agents are all lipophilic cytostatic anti-tumor agents. Accordingly, as these species are all related,

examination of these compounds along with the elected species of camptothecin would not cause an undue burden to examine.

Moreover, it is Applicants' understanding that the Examiner intends to begin by searching the elected species and will continue searching until art is found or until a generic claim is found allowable. Applicants also point out that when a generic claim is found to be allowable, the withdrawn claims which depend from or include the limitations of the allowed claim must be rejoined and fully examined for patentability. MPEP 809.

Applicants further reserve the right to traverse the art of US Published Patent Application 20030072794 in any later communications to the Patent Office should this reference be officially presented as a basis for rejection of the present application.

Conclusion

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: **June 18, 2009**
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Respectfully submitted,
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/Sally Teng/

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